



Legislative Department
Seattle City Council
Memorandum

Date: September 27, 2010

To: Councilmember Sally J. Clark, Chair
Councilmember Tim Burgess, Vice Chair
Councilmember Sally Bagshaw, Member
Committee on the Built Environment (COBE)

From: Rebecca Herzfeld and Michael Jenkins, Council Central Staff

Subject: September 29, 2010 COBE Meeting: Lowrise Multifamily Zoning

The last COBE discussion of revisions to the Lowrise (LR) multifamily zones was on July 14, 2010. Since then, staff has been incorporating direction from the Committee into the version of the legislation that was published for public review on April 22, 2010. We have also been working on responses to public comments and on technical corrections and clarifications to the code.

The draft schedule for adoption of the legislation is shown on Table A below.

Table A: Draft Schedule for Council Review of LR Code Update

| Action | Date (all in 2010) |
|---|------------------------|
| COBE provides direction on issues | September 29 |
| Hearing Examiner decision on SEPA appeal | Early October |
| Introduce revised legislation based on public comment and Committee direction (assumes Declaration of Non-significance (DNS) is upheld by the Hearing Examiner) | Mid-October |
| Publish notice of legislation and second Council public hearing | Mid-October |
| Public hearing on LR legislation at special COBE meeting | November 30, 9:30 a.m. |
| COBE vote on LR legislation. | December 8 |
| Council vote on LR legislation. | December 13 |

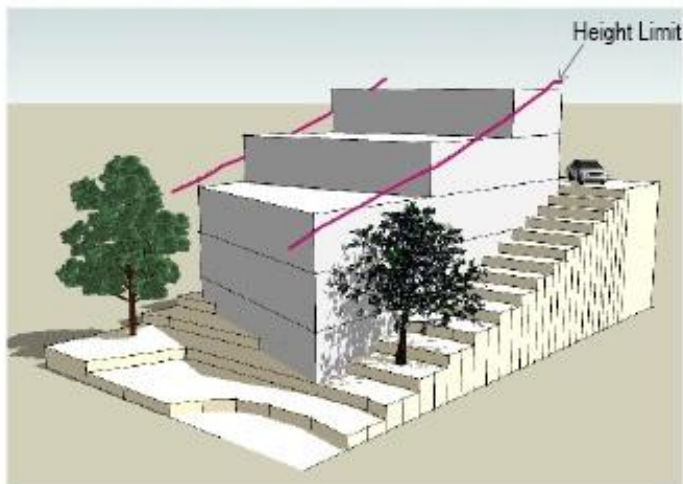
Today we are requesting Committee direction on three topics that were raised by public comments. Two are about building height: 1) adding provisions for steeply sloping lots; and 2) adding restrictions to the rooftop features that are permitted to exceed the height limit in LR zones. The third issue is about Floor Area Ratio (FAR) limits. We also are presenting recommendations for five items in a consent agenda.

Issue 1. Height exception for steep lots

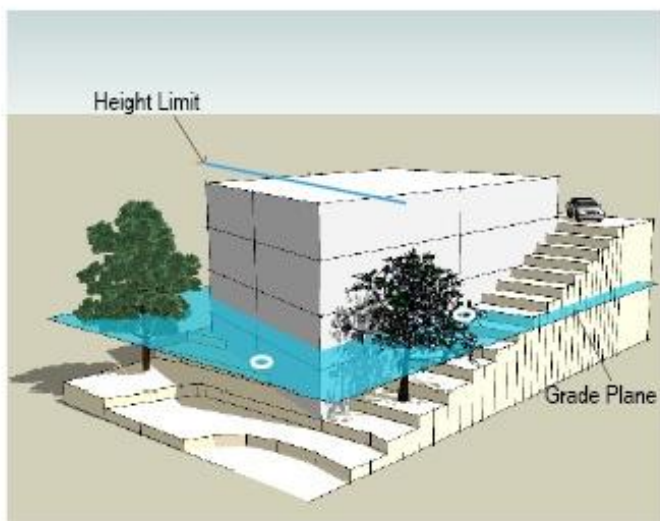
The proposed bill would change the height measurement method for most zones to the one now used in shoreline areas. The shoreline method works well with the Building Code height measurement technique, addresses different site conditions, minimizes view blockage, and encourages well-designed buildings. The current Land Use Code technique results in a permissible building envelope that follows the slope, and a height limit that is essentially a sloping plane parallel to the sloping grade (see Diagram 1 below). By contrast, the shoreline method establishes a height limit that is at a constant elevation, based on an average of the grade elevations at the sides of the building (see Diagram 2 below). As a result, on a sloping lot, under the shoreline method there may be a taller façade and greater building mass on the downhill side of the structure, but less height and mass on the uphill side.

Diagrams 1 and 2: Height Measurement Methods

Current Land Use Code Method

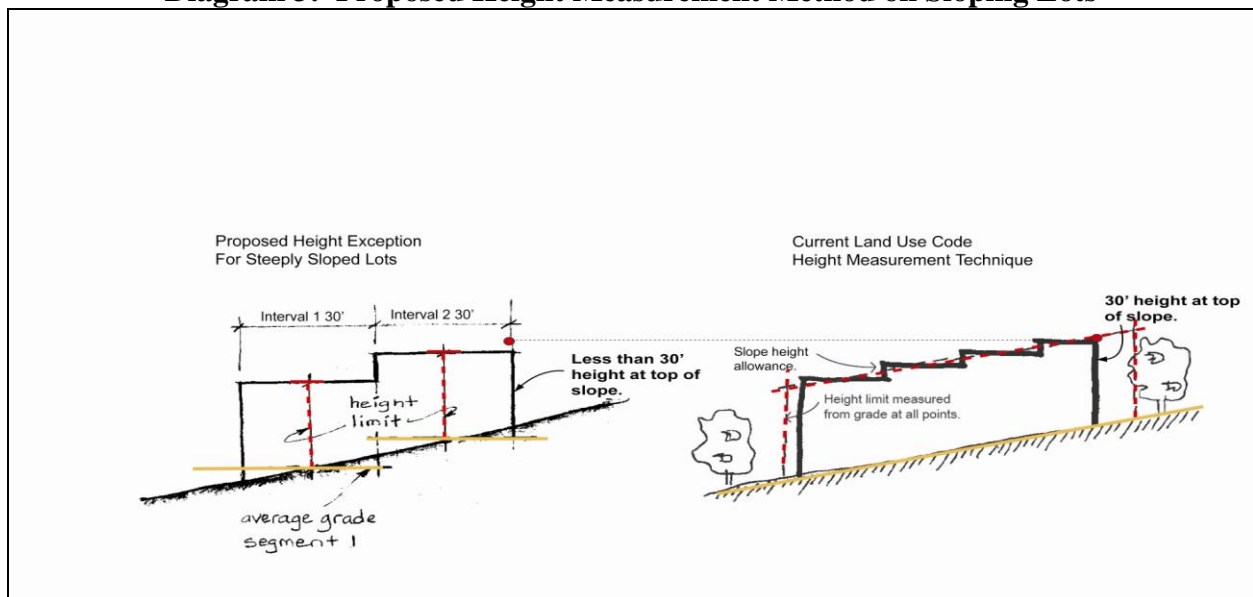


Shorelines Method



Generally, the public reaction to the proposed change to the shoreline height method has been positive, except that we have received comments pointing out the need to provide a mechanism to segment the building and “reset” the point at which average height is measured on steep slopes. For example, if a developer builds several rowhouses along a steep street, allowing a reset from the point that average height is measured would allow individual units to step down the slope. This would help break up the visual bulk of the building, and would allow unit entrances to be closer to the street. If such an exception is approved, the uphill façade would still always be same or lower height than under the current height measurement method (see Diagram 3 below).

Diagram 3: Proposed Height Measurement Method on Sloping Lots



The revised code language for allowing a reset of the average height on steep slopes is shown in Attachment A to this memo.

Committee direction:

Issue 2. Height exceptions for rooftop features

The Council received a comment from Jeff Borrow of the Alki neighborhood that raises concerns about the potential “negative visual and aesthetic impacts of rooftop features when added to the height increases proposed for the new LR1, LR2, and LR3 designations...” Mr. Borrow points out that rooftop features may have particular impacts on single family homes that abut LR zones.

Staff reviewed the proposed height limits for rooftop features as a result of this comment, and DPD has prepared Diagram 4 below, which illustrates how the current regulations for rooftop features might work. As noted on the diagram, we are recommending removal of the rooftop height exceptions in LR zones that would allow an additional ten feet for sun and wind screens,

penthouse pavilions, and greenhouses and solariums not used for growing food. These features make sense on the roofs of taller structures in Midrise and Highrise zones, but are not needed and would be out of scale in LR zones.

Diagram 4: Height Limits for Rooftop Features

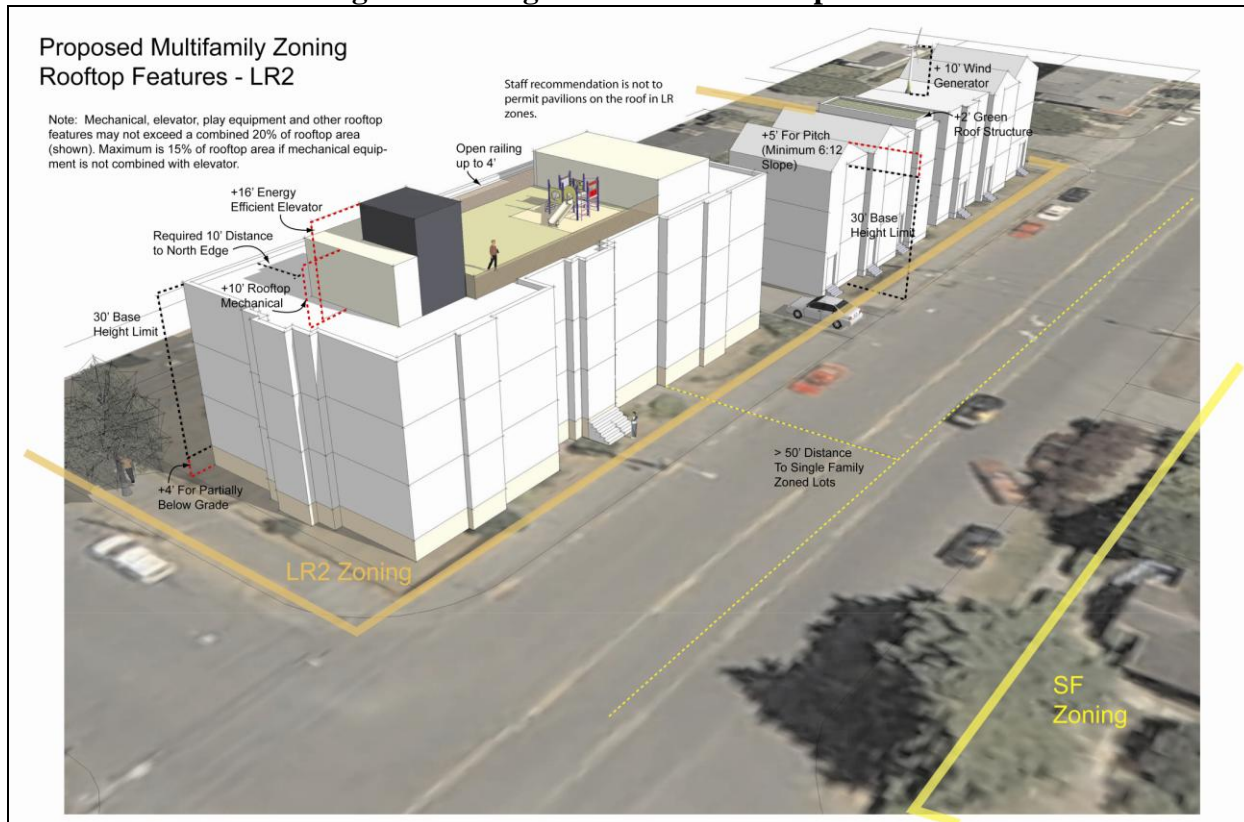


Diagram 4 also notes that a ten foot setback from the north edge of a roof is required for all rooftop features, in order to protect solar access for adjacent properties. As a further option, we are also reviewing whether the most bulky rooftop features (stair and elevator penthouses, and screened mechanical equipment) should be required to be located away from other edges of the roof, or from street lot line(s). While such setbacks could reduce the visual impact of such features, requirements that are too stringent could make it very difficult to design efficient buildings, especially on small lots. If the Committee would like to investigate this option, we could work with Councilmember Clark on proposed language for the next version of the bill.

The revised code language for removing the rooftop height exceptions for sun and wind screens, penthouse pavilions, and greenhouses and solariums is shown in Attachment B to this memo.

Committee direction:

Issue 3. FAR limits

The LR zoning proposal would set a Floor Area Ratio (FAR) limit in LR zones. Each housing type has a “base” FAR limit, as well as a higher FAR limit that can be reached by following specific requirements, including sustainable construction, paving and using an alley if one exists, and locating parking underground or at the back of the lot. Buildings designed as autocourt townhouses would not qualify for the higher FAR limit.

We received public comments on the bill that recommended lowering the base FAR limit to give a greater encouragement to the preferred building designs. In addition, some comments stated that autocourt townhouses should be banned altogether. In response to these comments, we are recommending three changes to the FAR regulations.

The first proposed change is to lower the base FAR limit for townhouses by 0.1 FAR, as shown in Table B below. The maximum FAR would stay the same. Lowering the FAR would create a greater incentive for better-designed townhouses. The proposed lower FAR limit is within the range that Department of Planning and Development staff found when analyzing the FAR reached by townhouse projects built under the current code.

Table B: Staff Recommendation for Townhouse FAR Limits

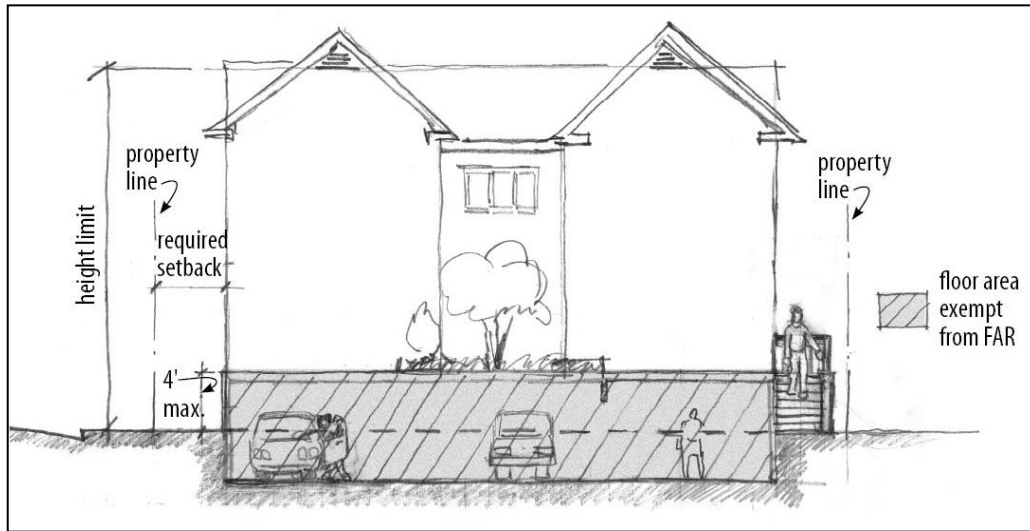
| Zone | FAR Limit in Current Proposal | | Staff Recommendation for FAR Limit | |
|-------------------------------|-------------------------------|---------|------------------------------------|---------|
| | Base | Maximum | Base | Maximum |
| LR1 | 1.0 | 1.1 | 0.9 | 1.1 |
| LR2 | 1.1 | 1.2 | 1.0 | 1.2 |
| LR3 “outside” ¹ | 1.2 | 1.3 | 1.1 | 1.3 |
| LR3 “inside” ¹ | 1.3 | 1.4 | 1.2 | 1.4 |

¹ “Inside” means located within urban centers, urban villages, or station area overlay districts; “Outside” means located outside of these areas.

The second change to the FAR regulations is to change how rowhouse developments qualify for the higher FAR limit. In the April 2010 proposal, rowhouses gained additional FAR by including an accessory dwelling unit (ADU) on the lot. This was intended to make rowhouses more competitive with townhouse development. However, in reviewing the FAR regulations, we are now recommending that rowhouses earn the additional FAR in by meeting the same standards that apply to other housing types. We believe that this is more important than encouraging ADUs, and that the proposed lowering of the base FAR for townhouses would continue to keep rowhouses competitive.

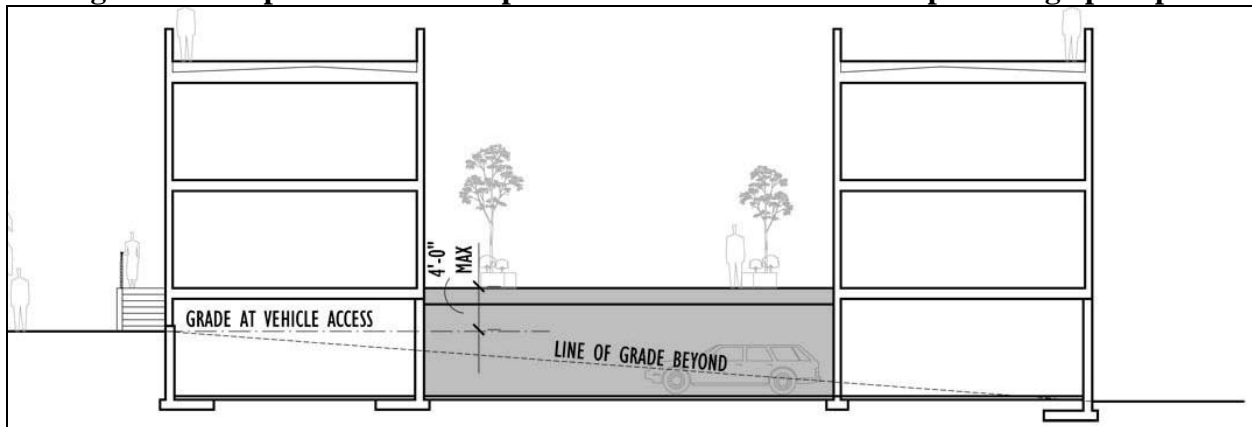
The third change we are proposing is to limit the use of the FAR exemption for portions of a story that extend no more than four feet above grade (see Diagram 5 below). In the April version of the legislation, this exemption could be applied to any apartment building in an LR zone. We are now recommending that only those apartments that meet the requirements for the higher FAR limits be permitted to use this exemption, as another way to encourage better design.

Diagram 5: FAR exemption for partially buried story



We are also recommending an additional exemption from the FAR limits for townhouses and apartments. This exemption, which was proposed by the Congress of Residential Architects (CORA), would help make it easier to provide below grade parking. The space below a lid that covers the parking would be exempted from the FAR limits, if the lid is designed and used to provide amenity area for building residents. Diagram 6 below shows an example of how this could work on a sloping site. Again, we are recommending that this exemption only apply to projects that meet the standards for gaining additional FAR.

Diagram 6: Proposed FAR Exemption for floor area below a lid providing open space



(Shaded area would be exempt from FAR limits)

The proposed code language that would implement these recommendations is shown in Attachment C to this memo.

Committee direction on changes to the FAR limits:

4. Consent Agenda

Consent Item 4a. Contract rezones

There are 20 contract rezones to current LR zones, dating back to 1984. Some of these rezones were for small multifamily buildings, while others were for much larger projects such as the redevelopment of the Holly Park and High Point areas by the Seattle Housing Authority. Most of the Property Use and Development Agreements (PUDAs) for these contract rezones have fewer than four conditions. Examples of the conditions include requiring landscaping, limiting the number of units or curb cuts, or limiting building height. A few PUDAs have more elaborate conditions, particularly when the lot is zoned for commercial as well as lowrise multifamily use.

We recommend that when the lots subject to these contract rezones are rezoned to the new LR zone categories, the conditions required in the PUDAs remain in effect. Because contract rezones establish the basis by which development can occur on a site, we want to ensure that the Council's previous decisions are carried through. The Clerk File numbers for these rezones would remain on the Official Land Use Map, to provide notice of these special conditions. The Law Department would draft the language to carry out this recommendation in the legislation.

Consent Item 4b. Transition to the new LR zones

The LR bill proposes many revisions to the current LR zone regulations, as well as three changes that apply more broadly (the height measurement method, and requirements for solid waste storage, and parking reductions for residential uses in urban villages). Earlier this summer, the Committee decided to make the code changes effective 90 days after adoption, rather than the usual 30 days. This will give the Department of Planning and Development (DPD) time for staff training and the development of new public information materials. We are now recommending two further actions to help provide a smoother transition to the new regulations.

The first transition recommendation is to allow applicants to apply for permits under the new code provisions during the 90 day period before it becomes effective. During this period, applicants could choose which set of code provisions to use (mixing and matching regulations old and new regulations would not be allowed). Permits applied for under the new regulations would not be issued until the effective date of the ordinance.

The second transition recommendation is to allow an additional 90 days after the effective date of the ordinance during which applicants may use the current height measurement method. Essentially, the effective date of the ordinance *for this provision only* would be 180 days (6 months). This "grace period" would be of particular help to applicants who may not realize that the changes in the LR bill apply to more than multifamily zones. Because height measurement can have a significant effect on the design of a project, it could be costly to change the design of a building to meet the new provisions. Providing extra time for this aspect of the ordinance would allow more time for public education and help to address this concern.

Consent Item 4c. Add cottage housing and rowhouses as Planned Residential Development options

In single-family zones, Planned Residential Developments (PRDs) are permitted as Council Conditional uses on sites of two acres or more. PRDs allow townhouses, as well as the clustering

of single family homes on smaller lots. PRDs are intended to enhance and preserve natural features, encourage the construction of affordable housing, allow for design flexibility on large site, and protect environmentally critical areas.

When the provisions for PRDs were written, cottage housing development and rowhouses were not housing types that were defined in the Land Use Code. These housing types are compatible with single-family development, and we recommend that they be added as options to the PRD regulations. The current provision that requires that any attached housing be physically separated from single-family zoned lots, either by a 100 foot setback or physical features such as a ravine, would continue to apply. The proposed text for this recommendation is shown in Attachment D.

Consent Item 4d. Allow eaves and gutters to extend four feet into required setbacks

In the proposal published last April, an exception would allow eaves, gutters, and other forms of weather protection to extend two feet into required setbacks. CORA has proposed a four foot exception for these features. They point out that “larger overhangs are typical of Northwest architecture”, given our rainy weather. Depending on the type of construction, the Building Code could require special treatment of the eaves, such as finishing on the underside of the eave with wallboard, or protection for a 1-hour fire rating.

We recommend that the 4 foot exception proposal be incorporated into the draft legislation, as follows:

Section 23.45.518 Setbacks

* * *

1. Cornices, eaves, gutters, roofs and other forms of weather protection may project into required setbacks and separations a maximum of ((2)) 4 feet if they are no closer than 3 feet to any lot line.

* * *

Consent Item 4e. Allow required parking to be located on an abutting lot

Currently, the Land Use Code does not permit parking for a residential use in a multifamily zone to be located off-site. We recommend that this be allowed in limited circumstances in multifamily zones. Allowing this flexibility could avoid the need to excavate an additional floor for just a few parking spaces, or allow a parking space on a lot line to be partially located on the abutting lot.

In order to take advantage of this proposed exception, the parking would have to be located on an abutting lot, rather than within 800 feet, which is what is permitted for off-site parking in commercial zones. A use permit would have to be obtained for the parking on the neighboring lot, with conditions that prohibit removal of the parking unless the unit on the abutting lot is removed, or if regulations no longer require the parking. Use permits are a stronger control mechanism than covenants, which have proved difficult to enforce over time. The Law Department would draft the language to carry out this recommendation in the legislation.

Committee direction on consent agenda items:

Attachments to September 27, 2010 COBE Memo

Attachment A: Height measurement on steep slopes

In the proposed code section shown below, wording proposed to be added to the version of the LR bill published in April 2010 is underlined.

23.86.006 Structure height [measurement]

A. In all zones except downtown zones and zones within the South Lake Union Urban Center, and except for the Living Building Pilot Program authorized by Section 23.40.060, the height of structures shall be measured according to this subsection 23.86.006.A.

1. The height of structures shall be measured from the average grade level of the lot immediately prior to the proposed development to the highest point of the structure not otherwise excepted from the height limits. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure.

2. Height measurement on sloping lots

a. The calculation of structure height in Section 23.86.006.A shall be modified for sloping lots if the following conditions apply:

1). The structure exceeds 30 feet in length measured parallel to the general direction of the slope; and

2). For the downhill portion of the structure, the measurement of height according to subsection 23.86.006.A.1 above results in an exterior facade that would exceed the height limit by 10 feet or more.

b. If the conditions of subsection 22.86.006.A.2.a apply, then the height measurement method shall be modified as follows:

1). The length of the structure measured parallel to the general direction of the slope shall be divided into equal segments of approximately 30 feet.

2). For calculating height, the average grade level shall be established for each segment.

* * *

Attachment B: Height exceptions for rooftop features

In the code section shown below, subsection 4 is the new for LR zones, subsection 5 is proposed to apply only to Midrise and Highrise zones, and subsection 6 is included to show the current provisions requiring a setback of rooftop features from the north edge of a roof.

Section 23.45.514 Height, subsection I, rooftop features

* * *

~~((3))~~4. In LR zones, the following rooftop features may extend 10 feet above the height limit set in subsections 23.45.514.A and E, or above the level of a roof allowed to exceed that limit under subsection 23.45.514.D, if the combined total coverage of all features does not exceed 15 percent of the roof area or 20 percent of the roof area if the total includes screened mechanical equipment:

- a. Mechanical equipment;
- b. Play equipment and open-mesh fencing that encloses it, if the fencing is at least 5 feet from the roof edge;
- c. Chimneys;
- d. Wind-driven power generators; and
- e. Minor communication utilities and accessory communication devices,
except that height is regulated according to the provisions of Section 23.57.011.

5. In MR and HR zones, ~~((The))~~the following rooftop features may extend 15 feet above the applicable height limit set in subsections 23.45.514.A, B, and ~~((E))~~E, or above the level of a roof allowed to exceed that limit under subsection 23.45.514.D, ~~((so long as))~~ if the combined total coverage of all features does not exceed 20 percent of the roof area, or 25 percent of the roof area if the total includes screened mechanical equipment:

- a. Mechanical equipment;
- b. Play equipment and open-mesh fencing ~~((which))~~ that encloses it, ~~((so long as))~~ if the fencing is at least 5 feet from the roof edge;
- c. Chimneys;
- d. Sun and wind screens;
- e. Penthouse pavilions for the common use of residents;
- f. Greenhouses and solariums, ~~((which))~~ that meet minimum energy standards administered by the Director;
- g. Wind-driven power generators; and

h. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

((4))6. ~~((Stair))~~ Subject to the roof coverage limits in subsection 23.45.514.I.4 and 5, stair and elevator penthouses may extend above the applicable height limit up to 16 feet. ~~((When))~~ If additional height is needed to accommodate energy-efficient elevators in HR zones ~~((with height limits of 160 feet or greater))~~, elevator penthouses may extend the minimum amount necessary to accommodate energy-efficient elevators, up to 25 feet above the applicable height limit. Energy-efficient elevators shall be defined by Director's Rule. ~~((When))~~ If additional height is allowed for an energy-efficient elevator, stair penthouses may be granted the same additional height if they are co-located within a common ~~((the elevator))~~ penthouse structure.

((5))7. For height exceptions for solar collectors, see Section 23.45.545.D.

((6))8. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection 23.45.514.~~((G))~~I at least 10 feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

- a. Solar collectors;
- b. Planters;
- c. Clerestories;
- d. Greenhouses and solariums;
- e. Minor communication utilities and accessory communication devices, permitted according to the provisions of Section 23.57.011;
- f. ~~((Nonfirewall parapets))~~ Parapets;
- g. Play equipment;
- h. Sun and wind screens;
- i. Penthouse pavilions for the common use of residents.

((7))9. For height limits and exceptions for communication utilities and devices, see Section 23.57.011.

((8))10. Greenhouses that are dedicated to food production are permitted to extend 15 feet above the applicable height limit, as long as the combined total coverage of all features

gaining additional height listed in this subsection 23.45.514.~~((G))~~I does not exceed 50 percent of the roof area, and the greenhouse adheres to the setback requirements listed in subsection 23.45.514.~~((G-6))~~I.8.

Attachment C: FAR limits

In the FAR section of the code below, the text highlighted in gray are proposed changes to the April 2010 version of the LR legislation.

Section 23.45.510 Floor Area Ratio (FAR) limits

* * *

B. FAR limits in LR zones

1. Floor area ratio limits apply in LR zones as shown in Table A for 23.45.510.

| Table A for 23.45.510: Floor Area Ratios in Lowrise Zones | | | | | |
|--|---|---|---------------------------------|---------------------------------|---------------------------------|
| <u>Zone</u> | <u>Location</u> | <u>Category of Residential Use</u> | | | |
| | <u>Outside or Inside Urban Centers, Urban Villages & Station Area Overlay District</u> | <u>Cottage Housing Development</u> | <u>Rowhouse</u> | <u>Townhouse</u> | <u>Apartment</u> |
| <u>LR1</u> | <u>Either outside or inside</u> | <u>1.1</u> | <u>1.1 or 1.2⁽¹⁾</u> | <u>0.9 or 1.1⁽²⁾</u> | <u>1.0</u> |
| <u>LR2</u> | <u>Either outside or inside</u> | <u>1.1</u> | <u>1.2 or 1.3⁽¹⁾</u> | <u>1.0 or 1.2⁽²⁾</u> | <u>1.2 or 1.3⁽³⁾</u> |
| <u>LR3</u> | <u>Outside</u> | <u>1.1</u> | <u>1.3 or 1.4⁽¹⁾</u> | <u>1.1 or 1.3⁽²⁾</u> | <u>1.4 or 1.5⁽³⁾</u> |
| | <u>Inside</u> | <u>1.1</u> | <u>1.3 or 1.4⁽¹⁾</u> | <u>1.2 or 1.4⁽²⁾</u> | <u>1.5 or 2.0⁽⁴⁾</u> |
| ⁽¹⁾ FAR may be increased by .1 for a rowhouse that ((includes one or more accessory dwelling units)) meets the standards of subsection 23.45.510.B.2. ⁽²⁾ FAR may be increased by .1 for a townhouse that meets the standards of subsection 23.45.510.B.2. ⁽³⁾ FAR may be increased by .1 for an apartment that meets the standards of subsection 23.45.510.B.2. ⁽⁴⁾ FAR may be increased by .5 for an apartment that meets the standards of subsection 23.45.510.B.2. | | | | | |

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Subsection 23.45.510.D, FAR exemptions:

* * *

4. For apartments in LR zones that qualify for the higher FAR limit shown in Table A for 23.45.510, portions of a story that extend no more than 4 feet above existing or finished grade whichever is lower. See Exhibit A for 23.45.510.

5. For townhouses and apartments that qualify for the higher FAR limit shown in Table A for 23.45.510, floor area within a structure or portion of a structure that is partially above grade and has no additional stories above, if the following conditions are met:

a. The average height of the exterior walls enclosing the floor area does not exceed 4 feet, measured from existing or finished grade, whichever is less;

b. The roof area above the exempt floor area is predominantly flat, is used as amenity area, and meets the standards for amenity area at ground level in subsection 23.45.522.E;

c. At least 25 percent of the perimeter of the amenity area on the roof above the floor area is not enclosed by the walls of the structure; and

d. The amenity area is no more than 4 feet above grade from at least one point where access is provided to the lot.

* * *

Attachment D:

Consent item 4c. Add cottage housing and rowhouses as options in PRDs

23.44.034 Planned residential development (PRD)(~~(:)~~)

* * *

B. Type of (~~(Dwelling Units)~~) Housing Permitted(~~(:)~~)

1. Only single-family dwelling units shall be permitted within (~~(one hundred~~ ~~(~~(~~))100(~~(+)~~)~~) feet of a PRD's property line which abuts or is directly across the street from a single-family zoned lot, except as provided in this subsection 23.44.034.B(~~(2)~~).

2. (~~(Either single family)~~) Single-family dwelling units, cottage housing developments, rowhouse developments, (~~(or)~~) and townhouse(~~(s)~~) developments are permitted when within (~~(one hundred~~ ~~(~~(~~))100(~~(+)~~)~~) feet of a property line of a PRD (~~(which)~~) that does not abut (~~(or)~~) and is not across a street from a single-family zoned lot, or that is separated from the single-family zoned lot by physical barriers, such as bodies of water, ravines, greenbelts, freeways, expressways and other major traffic arterials or topographic breaks (~~(which)~~) that provide substantial separation from the surrounding single-family neighborhood.

3. (~~(Either single family)~~) Single-family dwelling units, cottage housing developments, rowhouse developments, (~~(or)~~) and townhouse(~~(s)~~) developments are permitted when more than (~~(one hundred~~ ~~(~~(~~))100(~~(+)~~)~~) feet from a PRD's property line.

4. ((Townhouses)) Cottage housing developments, rowhouse developments, and townhouse developments shall meet the development standards for structures in Lowrise 1 zones, unless otherwise specified in this ((subchapter)) Chapter 23.44.

* * *